UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,039	06/25/2003	Bruce E. Thomas	8372/89823	3931

24628 7590 05/03/2005

WELSH & KATZ, LTD
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

EXAMINER	
JOHNSON, BLAIR M	

ART UNIT	PAPER NUMBER
3634	

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/606,039	THOMAS ET AL.	
	Examiner	Art Unit	
	Blair M. Johnson	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 February 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *96-106* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *96-106* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *9/28/04;2/24/05;2/25/05; 8/05/04*
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Claim Rejections - 35 USC § 112

Claims 101-106 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 101, line 33, "said screen attachment element" has no proper antecedent basis.

Claim Rejections - 35 USC § 103

Claims 96 and 97 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Cowsert.

In Johnson, see header, jambs and sill 12, first track 112, and second track 114, screen engaging element 115, roller assembly 30, fabric module 34, fabric 36, insert 16 and coupling mechanism 40,42,44. Johnson does not show the slidable spline connection. However, such is old as disclosed by Cowsert at 20,26. It would have been obvious to use this type of connection to attach the free end of the screen of Johnson to the insert so as prevent disengagement. A portion of 40,42,44, is L-shaped.

Claims 98 and 99 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Cowsert et al as applied above, and further in view of Ralph et al.

Ralph et al discloses that it is old to provide counterbalances, 60-63, and latches 100 on sliding sashes in a door. It would have been obvious to modify Johnson to have these features so as to improve operation and hold the sash in position.

Claim 100 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Cowsert et al as applied above, and further in view of Holevas.

While Johnson states that his housing 34 is attached "in any convenient manner", column 2, lines 24-25, which would include a well known easily detachable connection, Holevas further discloses upper and lower housings which each are attached via a clip like arrangement. It would have been obvious to provide such a feature for Johnson to permit replacement of the screen or removal of the housing.

Claims 101 and 102 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson, as applied above, in view of Kemp.

Kemp provides a teaching of a leading edge of a screen having an "end attachment element" 138 which extends into the screen tracks for guiding and support of the screen. It would have been obvious to modify Johnson whereby his end attachment element 40, etc., has a portion that extends into the tracks for this reason. See channel structure at 46 in Johnson.

Claim 103 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Kemp as applied above, and further in view of Cowsert.

Cowsert is applied here as above.

Claims 104 and 105 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Kemp as applied above, and further in view of Ralph et al.

Ralph et al is applied here as above.

Claim 106 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Kemp as applied above, and further in view of Holevas.

Holevas is applied here as above.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 96 and 97 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 21 of U.S. Patent No. 6618998 in view of Cowsert. Cowsert is applied here as above.

Claims 98 and 99 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 21 of U.S. Patent No. 6618998 in view of Ralph et al. Ralph et al is applied here as above.

Claims 101 and 102 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 21 of U.S. Patent No. 6618998 in view of Johnson.

Johnson discloses the insert having a channel as discussed above. It would have been obvious to provide this channel structure and accompanying screen attachment structure to claim 21 so as to provide a releasable attachment of the screen and insert.

Claim 103 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 21 of U.S. Patent No. 6618998 in view of Johnson and further in view of Cowsert. Cowsert is applied here as above.

Claims 104 and 105 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 21 of U.S. Patent No. 6618998 in view of Johnson and further in view of Ralph et al. Ralph et al is applied here as above.

Claim 106 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 21 of U.S. Patent No. 6618998 in view of Johnson and further in view of Kemp. Kemp is applied here as above.

Response to Arguments

Applicant's arguments have been fully considered but they are not persuasive.

Johnson provides tracks which clearly have screen engaging elements 115. Further, the end of the screen itself is a screen portion extending into the tracks which meets claim 96 and Kemp has been applied to Johnson to provide an screen attachment element that would, as portion of element 40, abut the channel structure, as proposed above.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blair M. Johnson whose telephone number is (571) 272-6830. The examiner can normally be reached on Mon.-Fri., 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6768. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Blair M. Johnson
Primary Examiner
Art Unit 3634

BMJ
4/29/05